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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,183	02/14/2002	Yoshiaki Wani	09792909-5341	7271

26263 7590 05/10/2005

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EXAMINER
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CANTELMO, GREGG

ART UNIT	PAPER NUMBER
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1745

DATE MAILED: 05/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/075,183

Applicant(s)

WANI ET AL.

Examiner

Gregg Cantelmo

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 12-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 12-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. In response to the amendment received April 21, 2005:
  - a. Claims 1-9 and 12-21 are pending with claims 10 and 11 having been cancelled as per Applicant's request;
  - b. The 112 rejection is withdrawn in light of the cancellation claims 10 and 11;
  - c. The prior art rejections of record stand.

### ***Claim Objections***

2. Claim 12 and 14 are objected to because of the following informalities: claims 12 and 14 claim dependency on claim 10 which has been cancelled. Appropriate correction is required.

### ***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the relationship of claim 1 wherein the distance between the first and second projection trains is equal to or greater than the length L of the battery must be shown or the feature(s) canceled from the claim(s). No new matter should be entered (see item 4 below). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an

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amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-7 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The relationship defined in claim 1 is not held to be sufficiently taught by the original disclosure. For example there is insufficient teaching of the first and second trains to be any and all distances greater than the length of the battery. Furthermore there is no clear statement as to the scale of the

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drawings and absent such the drawings and alleged relationships shown therein are not held to be sufficient support for the claimed relationship since there is no clear statement in the original disclosure that the drawings are to scale.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO '008 in view of U.S. Patent No. 5,819,917 (Nicholson) and U.S. Design Patent No. D 433,562 (Redlinger).

WO '008 discloses a case including a main body 2 having a first opening portion at one and a bottom surface 7 at the other end, and a lid portion 1 having a second opening at one end of the lid portion and a head portion at the opposing end, a plural projection trains 11 run along the length of the main body to the bottom of the body (first and second trains) a third projection train 6 is formed on the lid and is adapted to engage any of the projection trains on the main body (Fig. 1 as applied to claim 1).

The body and lid have a circular cross section (Fig. 1 and abstract) which is inherently made up of plural circular arc segments (as applied to claims 2 and 3).

Projection portion of trains 11 at the bottom of the body 2 are "substantially the same diameter" as the opening of the lid. The term substantially renders a degree of latitude to the diameters being exactly the same and thus can be slightly larger or

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smaller so long as they are about the same diameter and permit the same insertion of the body into the lid (as applied to claim 6).

The differences between claims 1, 5 and 7 and WO '008 are that WO '008 does not teach of providing a through-hole in the head portion of the lid (claim 1), of the bottom surface expanded toward the outside via a circumferential ring (claim 5), wherein the through hole has a concave portion and a cylindrical portion (claim 7).

With respect to the lid having a through hole (claims 1, 5 and 7):

Nicholson discloses that an attachment means provided to at least one of the cover or body of the casing 10 permits attachment of the casing 10 to other devices (see Fig. 1).

Redlinger shows a lid having a through hole in the head portion of the lid wherein the hole is disposed in a central area of the lid and has a concave portion and cylindrical portion (Figs. 1-4).

The motivation for providing a through hole in the head portion of the lid is that provides a an attachment point on the container and permits attaching the container to other means.

The motivation for configuring the lid to have the through hole placed and configured as defined in claims 5 and 7 permits attachment of the container to a key ring whereat additional elements can also be attached to the ring.

Therefore it would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to modify the teachings of WO '008 by providing a

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through hole in the head portion of the lid since it would have provided a an attachment point on the container and permitted attaching the container to other means.

It would have further been obvious to one of ordinary skill in the art at the time the claimed invention was made to modify the teachings of WO '008 by configuring the lid to have the through hole since it would have permitted attachment of the container to a key ring whereat additional elements could also be attached to the ring.

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1-3 and 5-7 have been considered but are moot in view of the new ground(s) of rejection.

It is held that further amending claims 1-3 and 5-7 to include the particular object stored in the container is not a novel contribution and therefore not patentably distinct over the prior art rejection above.

It is apparent that claim 1 has been amendment such that the claims do not require the casing to store a battery but only that the casing is "adapted" to store a battery. The prior art container of WO '008 is held to be sufficiently capable of storing batteries. Furthermore there are numerous types of batteries known in the art such as coin shaped batteries for use in devices such as wristwatches.

It has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchinson*, 69 USPQ 138.

***Claim Rejections - 35 USC § 103***

7. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosler in view of U.S. Patent No. 5,819,917 (Nicholson) and U.S. Design Patent No. D 433,562 (Redlinger).

Rosler discloses a case including a main body 1 having a first opening portion at one end and a bottom surface 1' at the other end, and a lid portion 2 having a second opening at one end of the lid portion and a head portion at the opposing end, a plural projection trains 3 run along the length of the main body to the bottom of the body (first and second trains) a third projection train 4 is formed on the lid and is adapted to engage any of the projection trains on the main body (Fig. 1 as applied to claim 1).

The body and lid have a circular cross section (Fig. 2) which is inherently made up of plural circular arc segments (as applied to claims 2 and 3).

The bottom surface 1' is expanded toward the outside via a circumferential ring (Figs. 1 and 2 as applied to claim 4).

Projection portion of trains 3 at the bottom of the body 2 are "substantially the same diameter" as the opening of the lid. The term substantially renders a degree of latitude to the diameters being exactly the same and thus can be slightly larger or smaller so long as they are about the same diameter and permit the same insertion of the body into the lid (as applied to claim 6).

The differences between claims 1, 5 and 7 and Rosler are that Rosler does not teach of providing a through-hole in the head portion of the lid (claim 1), of the head



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portion having a space portion between the hole and body (claim 4), wherein the through hole has a concave portion and a cylindrical portion (claim 7).

With respect to storing batteries in the container (claim 1):

Rosler is broadly drawn to a container which can be used as a container for any number of items.

With respect to the lid having a through hole (claims 1, 5 and 7):

Nicholson discloses that an attachment means provided to at least one of the cover or body of the casing 10 permits attachment of the casing 10 to other devices (see Fig. 1).

Redlinger shows a lid having a through hole in the head portion of the lid wherein the hole is disposed in a central area of the lid and has a concave portion and cylindrical portion (Figs. 1-4).

The motivation for providing a through hole in the head portion of the lid is that provides a an attachment point on the container and permits attaching the container to other means.

The motivation for configuring the lid to have the through hole placed and configured as defined in claims 5 and 7 permits attachment of the container to a key ring whereat additional elements can also be attached to the ring.

Therefore it would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to modify the teachings of Rosler by providing a through hole in the head portion of the lid since it would have provided a an attachment point on the container and permitted attaching the container to other means.

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It would have further been obvious to one of ordinary skill in the art at the time the claimed invention was made to modify the teachings of Rosler by configuring the lid to have the through hole since it would have permitted attachment of the container to a key ring whereat additional elements could also be attached to the ring.

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 1-3 and 5-7 have been considered but are moot in view of the new ground(s) of rejection.

It is held that further amending claims 1-3 and 5-7 to include the particular object stored in the container is not a novel contribution and therefore not patentably distinct over the prior art rejection above.

It is apparent that claim 1 has been amended such that the claims do not require the casing to store a battery but only that the casing is "adapted" to store a battery. The prior art container of WO '008 is held to be sufficiently capable of storing batteries. Furthermore there are numerous types of batteries known in the art such as coin shaped batteries for use in devices such as wristwatches.

It has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchinson*, 69 USPQ 138.

### ***Claim Rejections - 35 USC § 103***

9. Claims 16 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosler in view of Nicholson.

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The case comprises a first projection train 3 on the body 1 near the bottom surface of the body and a second projection train 4 formed on the lid 2 near the open end of the lid, wherein the second projection train is adapted to engage the first projection train (Fig. 1 as applied to claim 16).

The body and lid have a circular cross section (Fig. 2) which is inherently made up of plural circular arc segments (as applied to claims 18 and 19).

Plural projection trains are formed on the main body along the span of the body and thus there is a multiple projection trains formed on the main body near the bottom surface and the second projection train (on the lid) is adapted to engage the projection trains (first or third trains) on the main body (Fig. 1 as applied to claim 20).

The difference between claim 16 and Rosler is that Rosler does not teach of the main body storing a battery.

Nicholson discloses providing a cylindrical accessory casing 10 wherein the objects stored in the casing are batteries.

Selection of the particular object for storing is a matter of intended use for the container of Rosler and one of ordinary skill in the art would have found it obvious to configure the size of the container of Rosler to fit any number of cylindrical objects including batteries. The storage of batteries in a cylindrical accessory casing being known in the art as shown by Nicholson.

***Response to Arguments***

10. Applicant's response provides no amendment to claim 16 nor provides any arguments with respect to claim 16 and 19-20. Therefore there is insufficient reasoning or evidence for withdrawing this rejection and the rejection stands.

***Claim Rejections - 35 USC § 103***

11. Claims 16 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO '008 in view of Nicholson.

The case comprises a first projection train 11 on the body 2 near the bottom surface of the body and a second projection train 6 formed on the lid 1 near the open end of the lid, wherein the second projection train is adapted to engage the first projection train (Fig. 1 as applied to claim 16).

The body and lid have a circular cross section (Fig. 1 and abstract) which is inherently made up of plural circular arc segments (as applied to claims 18 and 19).

Plural projection trains are formed on the main body along the span of the body and thus there is a multiple projection trains formed on the main body near the bottom surface and the second projection train (on the lid) is adapted to engage the projection trains (first or third trains) on the main body (Fig. 1 as applied to claim 20).

The difference between claim 16 and WO '008 is that WO '008 does not teach of the main body storing a battery.

Nicholson discloses providing a cylindrical accessory casing 10 wherein the objects stored in the casing are batteries.

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Selection of the particular object for storing is a matter of intended use for the container of WO '008 and one of ordinary skill in the art would have found it obvious to configure the size of the container of WO '008 to fit any number of cylindrical objects including batteries. The storage of batteries in a cylindrical accessory casing being known in the art as shown by Nicholson.

***Response to Arguments***

12. Applicant's response provides no amendment to claim 16 nor provides any arguments with respect to claim 16 and 18-20. Therefore there is insufficient reasoning or evidence for withdrawing this rejection and the rejection stands.

***Claim Rejections - 35 USC § 103***

13. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rosler in view of Nicholson as applied to claim 16 above and in further view of U.S. Design Patent No. D 433,562 (Redlinger).

The teachings of claims 16 with respect to Rosler have been discussed above and are incorporated herein.

The difference between claim 17 and Rosler is that Rosler does not teach of providing a through-hole in the head portion of the lid (claim 17).

Rosler is broadly drawn to a container which can be used as a container for any number of items.

Redlinger shows a lid having a through hole in the head portion of the lid wherein the hole is disposed in a central area of the lid and has a concave portion and cylindrical portion (Figs. 1-4).

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The motivation for providing a through hole in the head portion of the lid is that provides a an attachment point on the container and permits attaching the container to other means.

Therefore it would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to modify the teachings of Rosler by providing a through hole in the head portion of the lid since it would have provided a an attachment point on the container and permitted attaching the container to other means.

14. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO '008 in view of Nicholson applied to claim 16 above and further in view of U.S. Design Patent No. D 433,562 (Redlinger).

The teachings of claims 16 with respect to WO '008 have been discussed above and are incorporated herein.

The difference between claim 17 and WO '008 is that WO '008 does not teach of providing a through-hole in the head portion of the lid (claim 17).

WO '008 is broadly drawn to a container which can be used as a container for any number of items.

Redlinger shows a lid having a through hole in the head portion of the lid wherein the hole is disposed in a central area of the lid and has a concave portion and cylindrical portion (Figs. 1-4).

The motivation for providing a through hole in the head portion of the lid is that provides a an attachment point on the container and permits attaching the container to other means.

Therefore it would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to modify the teachings of WO '008 by providing a through hole in the head portion of the lid since it would have provided a an attachment point on the container and permitted attaching the container to other means.

15. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rosler in view of Nicholson as applied to claim 16 above and further of U.S. Design Patent No. D 433,562 (Redlinger).

The teachings of claims 16 with respect to Rosler have been discussed above and are incorporated herein.

The differences between claim 21 and Rosler is that Rosler does not teach of the casing having a cross-sectional shape as a pair of glasses.

The combination of Rosler in view of Nicholson is held to obviate placing batteries in the cylindrical casing.

It is further known in the battery art to place 2 electrical cell in a side-by-side arrangement as show in Fig. 1 of Shim.

The particular shape of the casing is held to be a matter of design choice and further obvious in light of Shim for the purposes of placing two cells in a side-by-side relationship in a single battery casing.

Therefore it would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to modify the teachings of Rosler in view of Nicholson by configuring the casing to have a cross-sectional shape as a pair of glasses since it

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would have provided a side-by-side arrangement of the batteries in a single battery casing.

16. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO '008 in view of Nicholson as applied to claim 16 above and further in view of U.S. Design Patent No. D 433,562 (Redlinger).

The teachings of claims 16 with respect to WO '008 have been discussed above and are incorporated herein.

The difference between claim 21 and WO '008 is that WO '008 does not teach of the casing having a cross-sectional shape as a pair of glasses.

The combination of WO '008 in view of Nicholson is held to obviate placing batteries in the cylindrical casing.

It is further known in the battery art to place 2 electrical cell in a side-by-side arrangement as show in Fig. 1 of Shim.

The particular shape of the casing is held to be a matter of design choice and further obvious in light of Shim for the purposes of placing two cells in a side-by-side relationship in a single battery casing.

Therefore it would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to modify the teachings of WO '008 in view of Nicholson by configuring the casing to have a cross-sectional shape as a pair of glasses since it would have provided a side-by-side arrangement of the batteries in a single battery casing.



***Response to Arguments***

17. Applicant's response provides no amendment to claim 16 nor provides any arguments with respect to claim 16, 17 or 21. Therefore there is insufficient reasoning or evidence for withdrawing this rejection and the rejection stands.

***Claim Rejections - 35 USC § 103***

18. Claims 8 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO '008 in view of Nicholson and Design Patent No. 409,560 (Shim).

WO '008 discloses a case including a main body 2 having a first opening portion at one end and a bottom surface 7 at the other end, and a lid portion 1 having a second opening at one end of the lid portion and a head portion at the opposing end, a plural projection trains 11 run along the length of the main body to the bottom of the body (first and second trains) and another projection train 6 is formed on the lid and is adapted to engage any of the projection trains on the main body (Fig. 1 as applied to claim 8).

Projection portion of trains 11 at the bottom of the body 2 are "substantially the same diameter" as the opening of the lid. The term substantially renders a degree of latitude to the diameters being exactly the same and thus can be slightly larger or smaller so long as they are about the same diameter and permit the same insertion of the body into the lid (as applied to claim 14).

The differences between claims 8 and WO '008 are that WO '008 does not teach of the main body having a cross-section shaped as a pair of glasses (claim 8).

With respect to storing batteries in the container (claim 8):

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WO '008 is broadly drawn to a container which can be used as a container for any object.

Nicholson discloses providing a cylindrical accessory casing 10 wherein the objects stored in the casing are batteries.

Selection of the particular object for storing is a matter of intended use for the container of WO '008 and one of ordinary skill in the art would have found it obvious to configure the size of the container of WO '008 to fit any number of cylindrical objects including batteries. The storage of batteries in a cylindrical accessory casing being known in the art as shown by Nicholson.

With respect to configuring the case of WO '008 in view of Nicholson to have a cross-sectional shape as a pair of glasses:

The combination of WO '008 in view of Nicholson is held to obviate placing batteries in the cylindrical casing.

It is further known in the battery art to place 2 electrical cell in a side-by-side arrangement as show in Fig. 1 of Shim (as applied to claim 8).

The particular shape of the casing is held to be a matter of design choice and further obvious in light of Shim for the purposes of placing two cells in a side-by-side relationship in a single battery casing.

Therefore it would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to modify the teachings of WO '008 in view of Nicholson by configuring the casing to have a cross-sectional shape as a pair of glasses

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since it would have provided a side-by-side arrangement of the batteries in a single battery casing.

19. Claims 9, 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO '008 in view of Nicholson and Shim as applied to claim 8 above, and further in view of Redlinger.

The differences not yet discussed are of the head portion and through-hole arrangement defined in claims 9, 13 and 15.

Nicholson discloses that an attachment means provided to at least one of the cover or body of the casing 10 permits attachment of the casing 10 to other devices (see Fig. 1).

Redlinger shows a lid having a through hole in the head portion of the lid wherein the hole is disposed in a central area of the lid and has a concave portion and cylindrical portion (Figs. 1-4).

The motivation for providing a through hole in the head portion of the lid is that provides a an attachment point on the container and permits attaching the container to other means.

The motivation for configuring the lid to have the through hole placed and configured as defined in claims 9, 13 and 15 permits attachment of the container to a key ring whereat additional elements can also be attached to the ring.

Therefore it would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to modify the teachings of WO '008 by providing a

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through hole in the head portion of the lid since it would have provided a an attachment point on the container and permitted attaching the container to other means.

It would have further been obvious to one of ordinary skill in the art at the time the claimed invention was made to modify the teachings of WO '008 by configuring the lid to have the through hole since it would have permitted attachment of the container to a key ring whereat additional elements could also be attached to the ring.

### ***Response to Arguments***

20. Applicant's response provides no amendment to claim 8-9 and 12-15 nor provides any arguments with respect to these claims. Therefore there is insufficient reasoning or evidence for withdrawing this rejection and the rejection stands.

### ***Claim Rejections - 35 USC § 103***

21. Claims 8, 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosler in view of Nicholson and Design Patent No. 409,560 (Shim).

Rosler discloses a case including a main body 1 having a first opening portion at one and a bottom surface 1' at the other end, and a lid portion 2 having a second opening at one end of the lid portion and a head portion at the opposing end, a plural projection trains 3 run along the length of the main body to the bottom of the body (first and second trains) a third projection train 4 is formed on the lid and is adapted to engage any of the projection trains on the main body (Fig. 1 as applied to claim 8).

The bottom surface 1' is expanded toward the outside via a circumferential ring (Figs. 1 and 2 as applied to claim 12).

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Projection portion of trains 3 at the bottom of the body 2 are "substantially the same diameter" as the opening of the lid. The term substantially renders a degree of latitude to the diameters being exactly the same and thus can be slightly larger or smaller so long as they are about the same diameter and permit the same insertion of the body into the lid (as applied to claim 14).

The difference between claim 8 and Rosler is that Rosler does not teach of the main body having a cross-section shaped as a pair of glasses (claim 8):

With respect to storing batteries in the container:

Rosler is broadly drawn to a container which can be used as a container for any object.

Nicholson discloses providing a cylindrical accessory casing 10 wherein the objects stored in the casing are batteries.

Selection of the particular object for storing is a matter of intended use for the container of Rosler and one of ordinary skill in the art would have found it obvious to configure the size of the container of Rosler to fit any number of cylindrical objects including batteries. The storage of batteries in a cylindrical accessory casing being known in the art as shown by Nicholson.

With respect to configuring the case of Rosler in view of Nicholson to have a cross-sectional shape as a pair of glasses:

The combination of Rosler in view of Nicholson is held to obviate placing batteries in the cylindrical casing.

It is further known in the battery art to place 2 electrical cell in a side-by-side arrangement as show in Fig. 1 of Shim (as applied to claim 8).

The particular shape of the casing is held to be a matter of design choice and further obvious in light of Shim for the purposes of placing two cells in a side-by-side relationship in a single battery casing.

Therefore it would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to modify the teachings of Rosler in view of Nicholson by configuring the casing to have a cross-sectional shape as a pair of glasses since it would have provided a side-by-side arrangement of the batteries in a single battery casing.

22. Claims 9, 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosler in view of Nicholson and Shim as applied to claim 8 above, and further in view of Redlinger.

The differences not yet discussed are of the head portion and through-hole arrangement defined in claims 9, 13 and 15.

Nicholson discloses that an attachment means provided to at least one of the cover or body of the casing 10 permits attachment of the casing 10 to other devices (see Fig. 1).

Redlinger shows a lid having a through hole in the head portion of the lid wherein the hole is disposed in a central area of the lid and has a concave portion and cylindrical portion (Figs. 1-4).

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The motivation for providing a through hole in the head portion of the lid is that provides an attachment point on the container and permits attaching the container to other means.

The motivation for configuring the lid to have the through hole placed and configured as defined in claims 9, 13 and 15 permits attachment of the container to a key ring whereat additional elements can also be attached to the ring.

Therefore it would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to modify the teachings of Rosler by providing a through hole in the head portion of the lid since it would have provided a an attachment point on the container and permitted attaching the container to other means.

It would have further been obvious to one of ordinary skill in the art at the time the claimed invention was made to modify the teachings of Rosler by configuring the lid to have the through hole since it would have permitted attachment of the container to a key ring whereat additional elements could also be attached to the ring.

### ***Response to Arguments***

23. Applicant's response provides no amendment to claim 8-9 and 12-15 nor provides any arguments with respect to these claims. Therefore there is insufficient reasoning or evidence for withdrawing this rejection and the rejection stands.

### ***Conclusion***

24. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregg Cantelmo whose telephone number is (571) 272-1283. The examiner can normally be reached on Monday to Thursday from 9 a.m. to 6 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pat Ryan, can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. FAXES received after 4 p.m. will not be processed until the following business day. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you

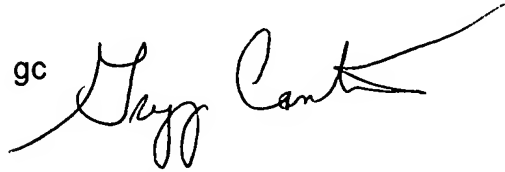


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have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gregg Cantelmo  
Primary Examiner  
Art Unit 1745

gc

A handwritten signature in black ink, appearing to read "Gregg Cantelmo", with a long horizontal flourish extending to the right.

May 6, 2005

**GREGG CANTELMO  
PRIMARY EXAMINER**